

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 4/7/2015	(3) CONTACT/PHONE Trevor Keith, Division Manager/805-781-1431	
(4) SUBJECT Introduction of an amendment to the Health and Sanitation Ordinance, Title 8 of the San Luis Obispo County Code relating to regulation of the exportation of groundwater and request to authorize alternative publication procedures. Hearing date set for April 14, 2015. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: <div style="margin-left: 40px;"> 1.) Introduce the ordinance in Attachment 1 and direct the Clerk to set for public hearing and action on April 14, 2015. 2.) Authorize that a display advertisement be published in a newspaper of general circulation in the County on or before April 8, 2015, indicating the general nature of the proposed amendment to Title 8 of the County Code that will be considered on April 14, 2015, can act as the alternative publication. 3.) Authorize that a one-quarter page display advertisement be placed in a newspaper of general circulation within 15 days after adoption of the proposed amendments by your Board. </div>			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input type="checkbox"/> Board Business (Time Est. ____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>9/9/14, 11/25/14, 3/17/15</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa Howe			
(18) SUPERVISOR DISTRICT(S) All Districts			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works, Mark Hutchinson, Deputy Director of Public Works
Planning and Building, Trevor Keith, Division Manager
County Counsel, Erica Stuckey, Deputy County Counsel

VIA: Jim Bergman, Director of Planning and Building
Rita Neal, County Counsel
Wade Horton, Director of Public Works

DATE: 4/7/2015

SUBJECT: Introduction of an amendment to the Health and Sanitation Ordinance, Title 8 of the San Luis Obispo County Code relating to regulation of the exportation of groundwater and request to authorize alternative publication procedures. Hearing date set for April 14, 2015. All Districts.

RECOMMENDATION

It is recommended that the Board:

1. Introduce the ordinance in Attachment A and direct the Clerk to set for public hearing and action on April 14, 2015.
2. Authorize that a display advertisement be published in a newspaper of general circulation in the County on or before April 8, 2015, indicating the general nature of the proposed amendment to Title 8 of the County Code that will be considered on April 14, 2015, can act as the alternative publication.
3. Authorize that a one-quarter page display advertisement be placed in a newspaper of general circulation within 15 days after adoption of the proposed amendments by your Board.

DISCUSSION

On January 28, 2014, the Board directed to staff to explore the technical and legal aspects of an ordinance regulating the exportation of groundwater.

On September 9, 2014, the Board directed staff to prepare an ordinance regulating the exportation of groundwater. Staff prepared a draft ordinance and solicited public feedback on the draft, including referrals to the Water Resource Advisory Committee, Agricultural Liaison Advisory Board, Paso Robles Groundwater Basin Advisory Committee, Community Advisory Councils, and others.

On November 25, 2015, the Board directed staff to move consideration of the proposed ordinance off calendar while staff revisited concerns raised by a number of stakeholder groups and individuals.

On February 3, 2015, the Board directed staff to bring the ordinance forward for Board discussion.

On March 17, 2015, the Board discussed the revised public review draft ordinance and directed staff to bring it back for introduction.

Attached is an ordinance regulating the exportation of groundwater underlying the County as presented on March 17 with modifications based on Board discussion. The ordinance will apply to all 22 Bulletin 118 groundwater basins within the County. It requires a permit to export water out of a groundwater basin or across County lines.

This staff report summarizes the changes made based on Board discussion regarding the draft language and public comments received. The comments received are attached (Attachment C). In addition, this staff report requests authorization for the use of alternative publication procedures to advertise the proposed amendment.

Definitions – Section 8.95.20

Local Water Agency Definition

On March 17, 2015, the Board expressed concern that a joint powers authority or a Groundwater Sustainability Agency could be considered a local water agency under the exemption C, which allows movement of groundwater within the boundaries or service area of a single local water agency. The definition of “local water agency” has been amended in the ordinance in Attachment 1 to specifically exclude a collection of two or more local water agencies that form a joint powers agency or a groundwater sustainability agency.

Exemptions – Section 8.95.40

Exemption for Contaminated Water

The public review draft included an exemption for contaminated water. Comments received expressed confusion about the need for this exemption and the need to define contaminated groundwater in great detail. In response, this exemption was removed from the draft ordinance prior to March 17, 2015.

During the discussion on March 17, 2015, your Board directed staff to include an exemption for contaminated groundwater along with a more clear definition. The ordinance in Attachment 1 defines contaminated groundwater as groundwater that has been altered by waste, seawater intrusion or other material to a degree which creates a hazard to public health through actual or potential poisoning or through actual or potential spreading of disease. The ordinance as proposed includes an exemption to allow movement of contaminated groundwater without first obtaining a permit if the release complies with discharge permits issued by the local, state, or federal resource agencies.

Removal of Exemption for County Flood Control and Water Conservation District

The ordinance language reviewed by your Board on March 17, 2015 included an exemption for exportation by the County or the San Luis Obispo County Flood Control and Water Conservation District. This exemption was removed in response to Board direction. Under the proposed language, the County and the Flood Control District would need to obtain a permit before engaging in the exportation of groundwater.

Procedures for Processing – Section 8.95.60

Paso Basin Advisory Committee to Receive Copies of Applications

The Paso Robles Basin Advisory Committee has been added as an advisory committee that will receive copies of export permit applications. This addition was requested by Supervisor Mecham during Board discussion on March 17, 2015.

Findings Required for Export Permit Approval – Section 8.95.70

Well Interference

In response to Board direction on March 17, 2015, finding 2 has been changed to address well interference. As stated, the proposed export must not result in well interference with wells owned or relied upon by others or create a cone of depression that extends beyond the applicant's land.

Export Permit Term – Section 8.95.120

In response to Board direction on March 17, 2015, a renewal process has been added to the draft ordinance language in section 8.95.120. No later than 90 days before expiration of the permit, a permittee may submit written request for a renewal. The permittee must demonstrate that there has been no significant change in circumstances from those which caused the approval of the previous export permit application. The Public Works Director may grant a renewal term not to exceed one year. Renewals can be granted an unlimited number of times provided the necessary findings can be made.

Termination Date – Section 8.95.180

The public review draft included a termination date of five years from the effective date of the ordinance unless the board voted after public hearings to extend it. This section has been removed in response to Board direction on March 17, 2015. The ordinance as proposed has no sunset date.

CEQA Exemption – Section II

Section II regarding CEQA has been added to the proposed ordinance text. This section explains that the ordinance is exempt from CEQA.

Alternative Publication Procedures Request

The California Government Code, Section 25124, establishes specific publication requirements for ordinance amendments. Your Board can order that a display advertisement be published in a newspaper of general circulation in the county prior to the public hearing and that a display ad be placed in a newspaper of general circulation following action on the amendments.

The California Government Code offers two cost-saving alternatives to publishing the complete text of an adopted ordinance after its passage (which has historically been the most commonly-used method). The alternatives include either publishing a summary of the proposed amendments; or, where the official responsible for the ordinance determines that a summary would not be effective, and with the consent of your Board, a simple display ad can be published in a local newspaper noting passage of the ordinance, where it can be obtained, and how your Board voted on its adoption.

Therefore, in accordance with Section 25124 of the California Government Code, we are requesting that your Board order that a display advertisement of a one-quarter page be published in a newspaper of general circulation in the county, indicating the general nature of the proposed ordinance amendment to be considered. In addition, it is requested that your Board direct that a one-quarter page display advertisement be placed in a newspaper of general circulation within 15 days after adoption of the proposed amendments.

Because publication of a display advertisement would cost substantially less than the full text of the adopted amendments, and because the diversity of topics covered in the amendments does not enable a meaningful summary, your favorable consideration on this matter is appreciated.

OTHER AGENCY INVOLVEMENT/IMPACT

This proposed ordinance has been approved by County Counsel as to form and legal effect.

FINANCIAL CONSIDERATIONS

Proposed Ordinance

Cost of developing the proposed ordinance was covered by the current County budget.

Alternative Publication Procedures

The current cost of publishing two quarter page display ads is approximately \$800. Reproducing the complete text of all of the amendments contained in this Ordinance Amendment would cost approximately 50 percent more than the cost of two quarter-page display ads depending on the size of the amendment text.

One ad is published prior to the hearing and the second ad, or “summary” ad, is published following the decision, which summarizes the decision made by the Board. This summary ad provides disclosure to the public that amendments were approved, but does not require that the entire amendment text be published, thereby saving the cost of publishing the amendments in their entirety.

RESULTS

Introduction of Amendments

Introduction of these amendments today will allow them to be heard on April 14, 2015 and, pending Board approval, to become effective 30 days later.

Alternative Publication Procedures

Advertising of the amendments will allow public hearings to occur in conformance with the Government Code and will cost substantially less than publishing the full text of the adopted amendments. This is consistent with the County goal of a prosperous and well governed community.

ATTACHMENTS

Attachment A: Proposed Ordinance for Introduction

Attachment B: Groundwater Basin Map

Attachment C: Comments Received